UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/CONF.151/PC/104/Add.1
27 December 1991

ENGLISH
Original: ENGLISH and SPANISH

PREPARATORY COMMITTEE FOR THE
UNITED NATIONS CONFERENCE ON
ENVIRONMENT AND DEVELOPMENT
Fourth Session
New York, 2 March - 3 April 1992
Working Group II
Item 2 of provisional agenda

PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228 AND TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS,

PROTECTION OF THE OCEANS, ALL KINDS OF SEAS INCLUDING ENCLOSED AND SEMI-ENCLOSED SEAS, COASTAL AREAS AND THE PROTECTION, RATIONAL USE AND DEVELOPMENT OF THEIR LIVING RESOURCES

COMPILATION DOCUMENT ON OCEANS

Addendum 1

Report of the Secretary-General of the Conference

COMMENTS FROM CANADA AND VENEZUELA

Introduction

1. As requested by the Preparatory Committee in paragraphs 4 and 5 of decision 3/21, documents and proposals submitted to the Secretary-General in writing before 15 October 1991 were incorporated into the Compilation Document. Submissions received after that date could not be integrated into the Compilation Document, but are being made available as addenda to the document.

GE.91-62924/8166a

92-02649

2. This addendum contains submissions from Venezuela received on 31 October 1991 and from Canada received on 15 November 1991.

COMMENTS FROM CANADA

Note by the Secretary-General: page and paragraph numbers refer to document A/CONF.151/PC/WG.II/L.18. The same paragraph numbers are used in the Compilation Document on Oceans.

MARINE POLLUTION

Page 7, Para. 11

The last square bracketed sentence is extremely vague and should be deleted. [Provisions of mechanisms to facilitate ...]

Page 7, Para. 12

(b) Delete the first squared bracketed phrase [Programmes for operative environmental assessment]. It is unnecessary.

Page 8, Para. 13

(d) Should be revised to read [... limited use of resources on a sustainable basis in protected areas could be allowed ...]

Page 9, Para. 16

(f) Delete (f) because it duplicates what is already stated better in preceding paragraph 16 (e).

Page 10, Para. 20

(a) Should apply to helping all developing countries, not merely developing island countries.

Page 11, Para. 21

"Anthropogenic sources" on the penultimate line (and in other instances where this terminology is used in the same context) should be revised to "anthropogenic activities".

Page 11, Para. 22

Delete [particularly pesticides and herbicides] from the otherwise all-encompassing list.

Page 13, Para. 27 bis.

(c) Make cross references to lead roles of other issues on human settlement and sewage respectively.

Page 14, Para. 32

(c) To avoid confusion and/or competition over priorities, it is suggested that (c) should read "Strengthen and develop national and regional integrated action plans".

Page 15, Para. 35

(c) Delete [and industrial effluents] which is addressed in paragraph 36.

(e) Delete [and industrial] which is addressed in paragraph 36.

Page 15, Para. 36

(c) Taking into account different national capacities as a technological issue should be addressed in the preamble, whereas the nature of marine conditions which determine whether or not nutrients are impacted should be explicitly stated.

Page 16, Para. 36

(d) Delete [... to preclude sea dumping ...] as this unnecessarily limits the scope of the assistance required as well as detracting from the priority concern for land-based sources of marine pollution.

Page 17, Para. 42

(a) Same comment as for page 15, paragraph 36 (c).

Page 17, Para. 42

(c) Delete. This conveys an erroneous impression of poor coordination and communication, when in fact the two Secretariats are making good progress towards clarifying and strengthening the relationship between the Basel and London Dumping Conventions. Ultimately it is States and not secretariats which must decide on how best to proceed.

Page 19, Para. 52 bis.

Leave in square brackets for further consideration by Working Group III at PrepCom IV.

LIVING MARINE RESOURCES

General Comments

The document generally reflects Canada's position on Living Marine Resources. It contains specific elements from L-16 a document prepared initially in the context of the Law of the Sea, and the continued inclusion of these elements in future versions of the paper is seen as essential.

Several paragraphs (3, 62, 69, 70, 91, 106, 108) support the concept of large marine ecosystems. This approach will facilitate regional and high seas

fisheries management coordination. Similarly other paragraphs (17 (b), 32 (b), 44, 51, 75, 85) support a global ocean extension programme which Canada supports in other areas. Paragraphs 50, 52 and 71 support indigenous human resource development which Canada fully supports.

Several paragraphs (59, 62, 65, 69, 86, 87, 88, 89, 90, 91, 92, 93, 94) reflect the UNCED document L-16. Canada is a co-sponsor of this document and associates itself with these paragraphs on the understanding that the paragraphs referred to apply to the high seas and not to the 200 mile zone. With that proviso, Canada supports adoption of the above referenced paragraphs.

Canada does not support references to polar regions, and in particular to the Arctic, as are currently found in paragraph 92.

Specific Comments by Paragraph Number (paragraph numbers refer to document A/CONF.151/PC/WG.II/L.18)

Para. 4.	This paragraph needs to recognize the importance of coastal areas for the subsistence uses of indigenous peoples, possibly a reference could be made after the term "human settlements..."
Para. 9.	Indigenous peoples should be indentified separately
Para. 12.	Indigenous peoples should be identified as well as local user groups rather than local populations
Para. 13.	The integration of traditional ecological information with scientific information should be promoted. Canada should support 13 (d) as the traditional use of marine resources in National Parks or protected areas is accepted in Canada. In 13 (bis.) after "best scientific..." add "and traditional".
Para. 16.	To improve the information base it will also be necessary to access the traditional knowledge base available to many coastal States
Para. 18.	Add "and participate" after maintain in line 4
Para. 20.	Replace "native" with "indigenous" to be consistent with other parts of the document
Para. 27 bis. (c).	Add "activities including" after "offshore oil"
Para. 28.	Support removal of square brackets
Para. 30 (c).	Replace "agriculture" with "other land and freshwater activities"
Para. 32 (b).	A global convention may be more difficult to achieve than a regional (e.g. Asia-Pacific) programme.

Para. 52.	Include reference to traditional ecological knowledge held by indigenous people
Para. 62.	Add "and traditional" after "scientific..."
Para. 65.	Add "subsistence" after "commercial..."
Para. 70 (d).	Add "and control" after "exploitation"
Para. 81.	This paragraph must recognize the importance of and need for subsistence hunting of marine mammals, particularly whales. Canada has previously opposed the extension of IWC's jurisdiction to include "small cetaceans".
Paras. 83, 84.	In Canada indigenous people have a special role.
Para. 116.	Add "indigenous people" after "fisherman"
Para. 128 (b).	Canada is prepared to share all scientific information as specified by UNCLOS. There is also a need to find a way of making use of traditional ecological information.
Para. 130 (b).	Add "source" before the word "fate"
Para. 134.	Add "traditional ecological information" after "integrate".

COMMENTS FROM VENEZUELA

Note by the Secretary-General: paragraph numbers refer to document A/CONF.151/PC/WG.II/L.18. The same paragraph numbers are used in the Compilation document on oceans.

Para. 58.	It is suggested that the concept of "indigenous peoples" should be replaced by that of "local communities". This would make it possible to cover the special situation not only of what are known as "indigenous" peoples, but also of communities settled on coasts that have historically been making use of the marine areas adjacent to such coasts to support themselves, through exploitation of marine resources using what may be termed traditional methods.
Para. 59.	Although in voting in favour of resolutions 44/225 and 45/197 of 21 December 1990, Venezuela associated itself with those countries which have declared their opposition to large-scale pelagic drift-netting, it regards as inappropriate the reference to this method alone in the list of "fishing practices" in the last sentence of paragraph 59. If there was general agreement to retain the substance of this sentence, a thoroughgoing redrafting would be necessary to give it more clarity and consistency.

Para. 66 bis. Similar comments apply to this paragraph, for the same reasons. Ultimately it should be expanded, and the reference to large-scale pelagic drift-net fishing should be used as an example of practices that have adverse effects on living resources in general.

Para. 69. As regards paragraph 69, there is no doubt as to the need to elaborate on a number of concepts and rules in order to provide Agenda 21 with broad and concrete content. Nevertheless, Venezuela feels that the drawing up of Agenda 21 cannot be used as an opportunity to oppose existing systems of rules which are acknowledged to form part of international customary law, and which have been developed as a result of an arduous and complex process designed to secure global consensus. Furthermore, where certain topics are concerned, it is important not to prejudge the outcome of work on rules in other international bodies whose nature makes them better suited to deal with these specific topics than the Preparatory Committee and UNCED itself.

Paragraph 69 illustrates this situation. It is not acceptable in its present drafting because, firstly, it is not in keeping with the provisions of the relevant articles of part V and part VII of the 1982 Convention on the Law of the Sea, relating to the high seas. While further elaboration and development of the rules set forth in these parts is regarded as necessary, it would be extremely dangerous to encourage a questioning of the balance achieved in the distribution of rights and powers in those and other parts of the 1982 Convention. Efforts to legitimize a further exercise in "creeping jurisdiction" on the part of coastal States cannot be accepted. It is also considered that the Preparatory Committee and UNCED itself are not the most appropriate bodies to draw up rules directly related to the legal regime governing the conservation and management of the living resources of the high seas.

Para. 70. It is suggested that the following words should be inserted in subparagraph (b):

"To define and identify management units based on <u>the concepts of</u> large marine systems, <u>without prejudice to the rights of the coastal State in areas under its sovereignty or national jurisdiction</u>."

The same wording should be inserted in subparagraph (d), or a reference introduced to the relevant provisions of the 1982 Convention on the Law of the Sea.

Para. 72. It is suggested that the following words should be inserted:

"[Assessment] [Development] [Promotion] of fishing methods and strategies ...".

Para. 88. Add the words "of which they are members" after the words "competent international [or regional] organizations".

Para. 92. Delete or redraft in keeping with the relevant rules contained in the 1982 Convention on the Law of the Sea.

Para. 93. Ditto

Para. 96. Inclusion of the provisions of paragraph 96 (b) in Agenda 21 is regarded as premature. This point should be considered in an international conference to be convened expressly to develop the regime of fisheries on the high seas, in which the problem of allocating responsibilities in this area to existing or future agencies would be discussed in a more appropriate manner.

Para. 99. Replace the words "indigenous peoples" by "local communities", for the reasons set out under paragraph 58.